

James A. Patten (ID.No. 1191)  
**PATTEN, PETERMAN, BEKKEDAHL & GREEN, P.L.L.C.**  
2817 Second Ave. North, Suite 300  
Billings, MT 59101  
Telephone (406) 252-8500  
Facsimile: (406) 294-9500  
Email:cmartinson@ppbglaw.com

Attorney for Steve's Auto Sales, Inc.

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF MONTANA

IN RE: ) Case No. 06-60855  
 )  
INCREDIBLE AUTO SALES, LLC ) **MOTION FOR RELIEF FROM**  
 ) **THE AUTOMATIC STAY AND NOTICE**  
Debtor. )  
\_\_\_\_\_  
)

The Motion of STEVE'S AUTO SALES, INC (hereinafter ("Steve's Auto") respectfully represents:

1. The Debtor filed a Petition in this Court under Chapter 11 of the Bankruptcy Code on the 17<sup>th</sup> day of October, 2006.

2. The Debtor holds property of Steve's Auto, and pursuant to Mont. LBR 4000-1, provides the following information: Steve's Auto asserts ownership of motor vehicles and through this motion seeks a return of said vehicles to its possession.

- (a) The present balance owing to Steve's Auto, excluding any pre-computed interest or other unearned charges is **\$ -0-**.
- (b) The date upon which the subject debt was incurred was; **N/A**
- (c) Steve's Auto holds a security interest or lien upon the following described property of the estate: **N/A**

- (d). The nature of Steve's Auto's security interest, the date upon which the security interest was obtained, and the date upon which the security interest was perfected are as follows: **N/A**

Steve's Auto has attached copies of all titles to prove the ownership of the vehicles:  
**See Exhibit A.**

- (e) A description of Steve's Auto collateral, including its location, is as follows:  
**N/A**
- (f) The fair market value of the collateral is **\$-0-**.
- (g) A description of, and the amounts due upon, any other security interest which have priority over that of Steve's Auto are as follows: **None.**
- (h). If the debtor is in default, the number of defaulted installments and the total amount in default are as follows: **N/A**
- (i). This motion is made under and pursuant to the following subsection of **11 U.S.C. §362(d)(2)**.
- (j) Other facts that which are relevant in determining whether relief should be granted are follows: **The Debtor has possession of nine motor vehicles described as follows:**  
2004 Chevrolet Cavalier - Exhibit A  
2007 Dodge Caliber- Exhibit B  
2003 Dodge Stratus- Exhibit C  
2005 KIA Spectra- Exhibit D  
2002 Mercury Sable- Exhibit E  
2006 Pontiac G6- Exhibit F  
2005 Suzuki Forenza- Exhibit G

**Prepetition the Debtor agreed to purchase and Steve's Auto agreed to sell the above-described vehicles.**

**The Debtor received possession before the commencement of this case but did not tender payment for the vehicles. No motor vehicle title has been transferred relative to the vehicles.**

**The Debtor has possession only; in the absence of a completed transaction, the Debtor's interest in the vehicles are subordinate to the interest of Steve's Auto Sales, Inc. which continues to own the vehicles. The status of the titles to the vehicles puts presumptive ownership with Steve's Auto.**

**The vehicles are subject to the liens granted by Steve's Auto to its financing companies; the original titles are held by its financing companies.**

**Alternatively, the Debtor holds the vehicles as a constructive trustee as it has obtained possession upon the representation of payment, it has not tendered payment and it will be unjustly enriched if it is allowed to retain the vehicles.**

**Through this motion, Steve's Auto Sales seeks a return of possession of the described vehicles.**

WHEREFORE, Steve's Auto hereby moves the Court to grant this Motion to Modify Stay, and to grant such other relief as the Court may deem appropriate.

**NOTICE TO DEBTOR**

**- If you object to the motion, you must file a written responsive pleading and request a hearing within ten (10) days of the date of the motion. The objecting party shall schedule the hearing and shall include in the caption of the responsive pleading the date, time and location of the hearing by inserting in the caption the following:**

**NOTICE OF HEARING**

**Date: \_\_\_\_\_**

**Time: \_\_\_\_\_**

**Location: \_\_\_\_\_**

**If no objections are timely filed, the Court may grant the relief requested as a failure to respond by any entity shall be deemed an admission that the relief requested should be granted.**

DATED this 16<sup>th</sup> day of November, 2006.

**PATTEN, PETERMAN, BEKKEDAH & GREEN, P.L.L.C.  
2918 Second Ave. North, Suite 300  
Billings, Montana 59101**

By: /s/ J.A.Patten  
**JAMES A. PATTEN, Attorney for Steve's Auto Sales**

**CERTIFICATE OF SERVICE**

This is to verify that on this 16<sup>th</sup> day of November, 2006, a copy of the foregoing **MOTION FOR RELIEF FROM THE AUTOMATIC STAY AND NOTICE** was duly served by first class mail, postage prepaid, upon the following:

Clarke B. Rice  
2951 King Ave. West  
Billings, MT 59102

Jason S. Ritchie  
Holland & Hart  
P.O. Box 639  
Billings, MT 59103

*/s/ J.A. Patten*

for PATTEN, PETERMAN, BEKKEDAHL & GREEN